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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,430	04/20/2004	Anthony Maglica	728256-100281	5366

34026 7590 09/15/2005

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EXAMINER

CARIASO, ALAN B

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/828,430

Applicant(s)

MAGLICA, ANTHONY

Examiner

Alan Cariaso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20050531</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Receipt of applicant's amendment filed May 31, 2005 is acknowledged. Claims 8-10 are pending and claims 1-7 have been canceled.

Claim Objections

2. Claim 9 is objected to because of the following informalities: Claim 9, line 5, the term "form" appears to be incorrect given the context. It appears it should instead be -- from--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by COOLIDGE et al (US 2,642,520).
5. COOLIDGE discloses a flashlight (fig.1, col.1, lines 1-4) comprising an enclosed housing (battery 36, fig.3) having a closed internal volume (col.6, lines 8-30) and a passage (54,56, fig.7) extending to atmosphere (fig.3) from the closed internal volume to atmosphere; a light source (17, fig.1); an electrical circuit (25,26,27,28,29,30,31,34) extending from said housing (36) to said light source (17); and a one-way valve (col.3,

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lines 33-36; 57-fig.7) in said passage (54,56) and adapted to permit gas to move from the internal volume to atmosphere (col.6, lines 23-30) while inhibit fluids from moving from atmosphere to the internal volume by any of the tight fitting of the collar valve (57) in the channel (56) so that liquid can pass and/or with the pressure force of gas escaping in one direction (col.6, lines 23-30); further comprising a head assembly (16) that is fluid tight when threadedly attached (fig.11) and connected to the housing (36).

Allowable Subject Matter

6. Claim 8 is allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: Claim 8 has allowable subject matter not disclosed or suggested by the prior art of record: a water resistant flashlight having a valve in the passage extending from the internal volume sized to receive one or more batteries.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. SHIMIZU shows a water resistant flashlight (fig.1) having an internal volume (air chamber 50) receiving one or more batteries (dry cells 40), a passage (vents 21-fig.2; annular space between top 13 and bottom 13 in fig.5; or grooves 63 & 64 in fig. 5) extending from the internal volume (50) of the flashlight to atmosphere; an annular band (22 or 60) about and in the passage (21-fig.2; 63,64, figs.4 or 5) and adapted to permit gas to move from the internal volume (50) to

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atmosphere while inhibiting fluids from moving from atmosphere to the internal volume (col.3, lines 41-65). MEAGER et al (US 2,897,345) show a gas-pressure relieving resilient collar (31,32,33) in water-tight association with vent passage (40) of the internal volume of the flashlight. BACON (US 2,855,497) shows a trigger valve housing (58) with plunger (74) in passage (72) that communicates with an internal volume of housing (container 18,10) of a flashlight.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cariaso whose telephone number is (571) 272-2366. The examiner can normally be reached on 9-5:30 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan Cariaso
Primary Examiner
Art Unit 2875

September 12, 2005

AC